

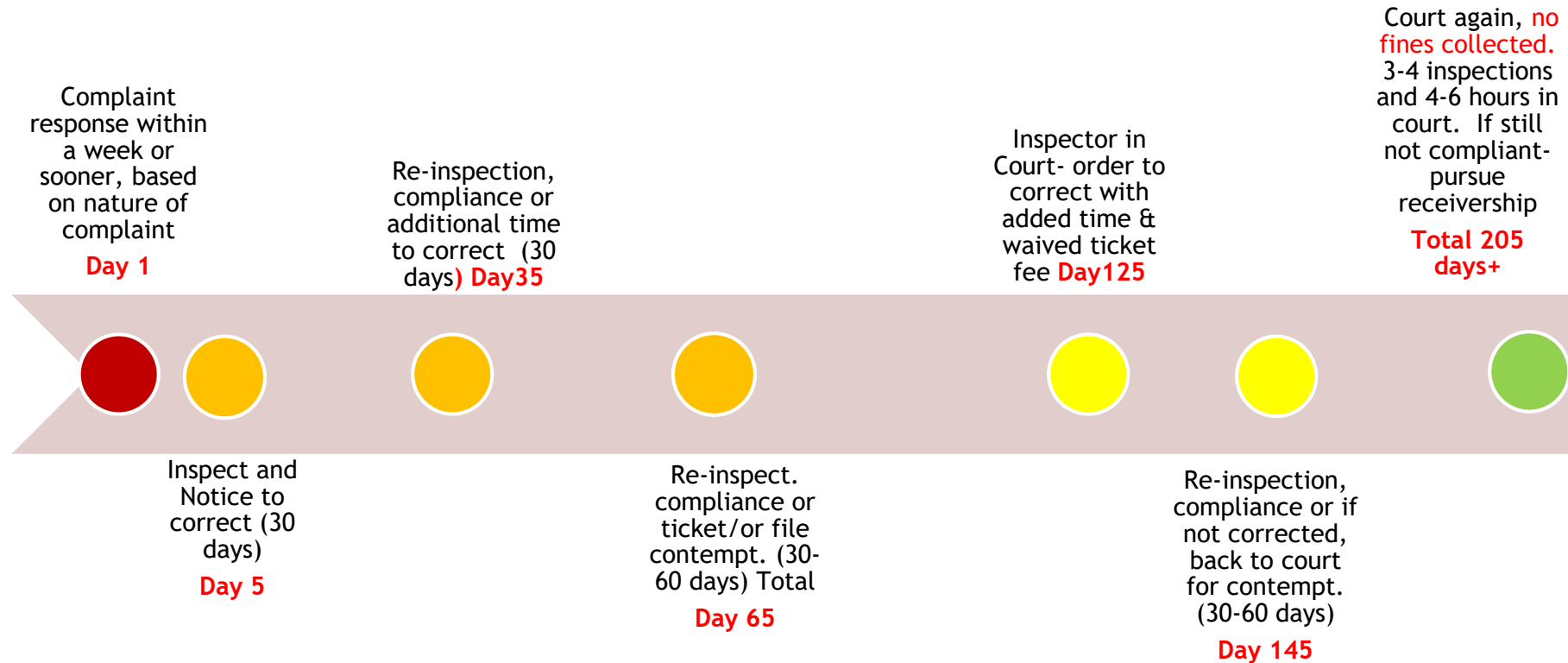
Adopting MGL 40U Municipal Hearing Officer Systems



What is MGL 40U

- ▶ Legislations that allows Cities and Towns that adopt 40U to designate a local municipal hearing officer to hear appeals of City-issued fines, including code violations.
 - ▶ Currently owners appealing fines at court.
- ▶ This is specific to fines for violations of rules, regulations, orders, ordinances or by-laws related to housing, sanitary code, or municipal snow and ice removal requirements.
- ▶ Adopting the law allows the City to create a system for fines & appeals and creates a process for collecting unpaid fines.

Our Current Inspection System



This system discourages fining and takes longer due to appeals of fines happening through court.

Our Current System Continued:

- ▶ When tickets are issued and appealed in court, a typical outcome looks like this:
 - ▶ 4-8 months have elapsed before repairs are made.
 - ▶ The Inspector has spent more time in the courthouse for the property than onsite at the property.
 - ▶ Fines are waived by the judge if the owner agrees to make repairs.
 - ▶ If the owner still fails to repair, the Inspector and City's Attorney are back in court, pursuing an alternative path for compliance with a multi-month time table.

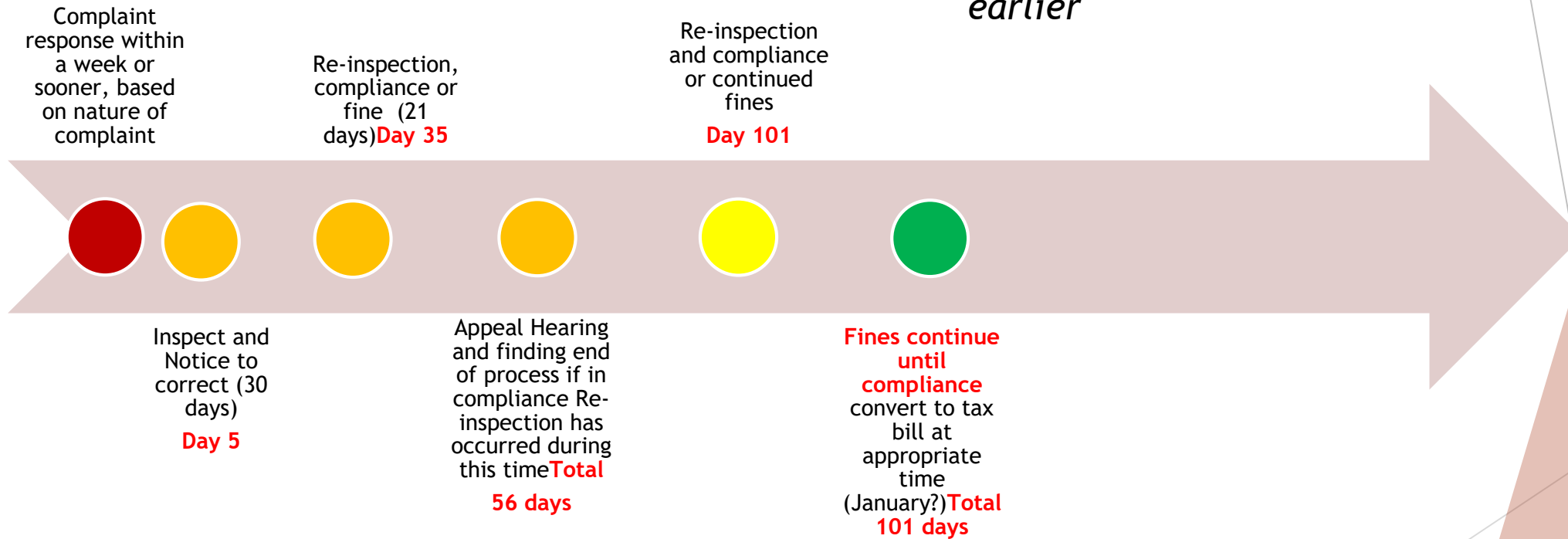
A New System Under 40U:

Adopting 40U will allow create an internal structure for the ticketing process:

- ▶ If an property owner fails to make repairs/correct violations within the required time frame and hasn't made significant progress, an Inspector can issue a ticket.
 - ▶ The owner, (alleged violator) either pays the fine within 21 days, or
 - ▶ Request a hearing before the municipal hearing officer.
 - ▶ The owner may also, without waiving rights to a hearing, request a desk review of the validity of violation notice.

A new System Under 40U

Fines and appeal hearing happen much earlier



Nuts & Bolts of 40U:

Nature of Hearing Officer Position and Hearings:

- ▶ The hearing officer shall not be an employee of officer of a department associated with the issuance of the violation.
- ▶ Shall receive an annual training to conduct administrative hearings.
- ▶ Shall keep a docket of all fines issued, hearings requested, and disposition of each.
- ▶ The hearing officer may be a contracted/stipend position.

Nuts & Bolts of 40U:

Administrative processes:

- ▶ Inspectors/Officers ticket for a violation.
 - ▶ The tickets must have specific prescribed information on them in triplicate.
 - ▶ Tickets from Building and Fire Codes use state ticket book per MGL Ch148A.
- ▶ Within 3 days, Inspectors must submit 2 copies of tickets to their supervisor, the supervisor keeps one and passes the other to the hearing officer the next business day.
- ▶ Tickets are logged and itemized on a docket.
- ▶ The hearing officer sends notice after 21 days of required fine payment as noted earlier.
 - ▶ Per IT, the OpenGov system can be used for automating much of this process.

Nuts & Bolts of 40U:

Where does the money go?

- ▶ Fines, interest, and penalties collected from tickets issued for snow & ice, sanitary code, municipal/housing ordinance violations can go into the general fund.
- ▶ Fines, interest, and penalties collected from tickets issued for State Building & Fire code violations must be earmarked for Fire and Building enforcement, training, education, and stipends for municipal hearing officers, no less than \$2500 per year. - per MGL Ch148A

Nuts & Bolts of 40U:

What will it cost the City?

- ▶ An appointed Hearing Officer will be required, but this may be a stipend position. If this is approved, the position would be in front of Finance/Council in the future.
- ▶ There may be a cost to annual training for hearing officers. Department of Fire Services has offered these trainings in the past for free.
- ▶ There will be some cost of producing ticket books or acquiring an automated ticketing system.
- ▶ Some costs will be dependent on volume, if we have a high volume of ticketing we may need to added administrative support or consultant hours to automate systems in OpenGov.
- ▶ In our research, this is cost neutral or better in other communities

Nuts & Bolts of 40U:

A typical outcome will look like this:

- ▶ Violation orders issued, typically with 30 days to correct.
- ▶ More tickets will be issued without the slow court system deterrent.
- ▶ Tickets issued with 51 (21+30) days maximum to pay ticket.
- ▶ Hearings requested within a maximum of 35 (21+14) days.
- ▶ Hearings scheduled within a maximum of 45 days after request made.
- ▶ Unpaid fines and fees placed on the tax bill for payment after 51 days + Treasurer's timeline.
- ▶ Hearing based on determination of whether the violation occurred and whether it was committed by person noticed to appear- not whether to waive fines.
- ▶ Continued violations after finding results in license/permit/certificate suspensions.
- ▶ Liens could be placed for unpaid fines, putting lenders and potential buyers on notice.

Questions & Comments

Thank you

Neighborhood Improvement through Code
Enforcement Task Force

Fitchburg Community Development & Planning Dept.
Inspectional Services